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- REMARKS -

Claim Rejections – 35 USC § 112

The Examiner has misunderstood the response submitted by the Applicant on December 4, 2006. The Examiner alleges that the Applicant relies on surface model reconstruction techniques to distinguish from the reference, while these features are not recited in the claim. However, the Applicant addresses surface model reconstruction techniques as *support* for the amendment provided. The Applicant respectfully submits that the description of surface model reconstruction techniques found in paragraphs [025] and [026] of the specification as originally filed is evidence that the subject matter added to claim 16, namely the following statement: "wherein said mechanical axis is determined and displayed on said output device without reference to an image of said femur acquired pre-operatively or intra-operatively using a medical imaging device", does not constitute new subject matter. Surface model reconstruction techniques are directly related to computer-assisted surgical systems that do not reference images of bones on output devices.

The Applicant also submits that the screenshots illustrated in figures 3, 4, and 5 are further evidence that claim 16 as amended does not constitute new subject matter. It would be clear to a person skilled in the art of CT-less computer-assisted surgery that the specification as originally filed fully intended to include an output device adapted to display the mechanical axis without reference to an image of a femur acquired pre-operatively or intra-operatively. Therefore, the Applicant reiterates that the amendment submitted in the response of December 4th, 2006 does not contain any new subject matter.

Claim amendments

Claim 1 has been amended in a manner similar to the amendment previously presented for claim 16. For the reasons submitted in the response submitted on December 4th, 2006, as well as the further explanations provided above, the Applicant respectfully submits that the present amendment does not constitute new subject matter.

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Claim Rejections – 35 USC § 102

Claims 1-3, 7-10, 12-23 are rejected under section 102(a) as being anticipated by Carson et al. (US 2003/0069591).

The Applicant believes claims 1 and 16 as amended overcome the present rejection and respectfully asks for reconsideration.

Carson et al. clearly fails to suggest a method other than using a medical imaging device to obtain images of appropriate body parts. This is evidenced by paragraph [0008], which states that obtaining appropriate images (such as fluoroscopy images) is the first step in the described system and process. In fact, Carson teaches against the use of imageless systems (see paragraph [0019]). He associates the imageless system with a kinematics technique and not an acquisition module that acquires static positions of the bone.

Moreover, Carson et al. states, in paragraph [0013], that a feature of the instrumentation, systems, and processes described therein includes "Assessing alignment and stability of the trial components and joint, both statically and dynamically as desired, using images of the body parts in combination with images of the trial components ..." (emphasis added). This is further evidence that the reference teaches against that recited in claims 1 and 16.

The feature recited in claim 16, "wherein said mechanical axis is determined and displayed on said output device without reference to an image of said femur acquired pre-operatively or intra-operatively using a medical imaging device", is not taught or suggested by the cited reference. Furthermore, the feature recited in claim 1, "displaying said mechanical axis on an output device without reference to an image of said femur acquired pre-operatively or intra-operatively using a medical imaging device", is not taught or suggested by the cited reference.

In conclusion, the Examiner is asked to withdraw the rejection of anticipation for claims 1-3, 7-10, 12-23. Early and favourable notice is earnestly solicited.

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Respectfully submitted,
Alain Richard et al.

By: 

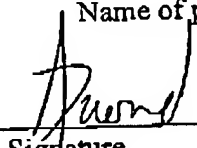
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